

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JOHN NIEMIEC,

Petitioner,

Case Number: 2:13-CV-10180

v.

HON. GEORGE CARAM STEEH

SHERRY BURT,

Respondent.

/

**OPINION AND ORDER DENYING APPLICATION TO PROCEED  
IN FORMA PAUPERIS AND DISMISSING HABEAS CORPUS  
PETITION WITHOUT PREJUDICE**

Petitioner John Niemiec, a state prisoner confined at the Muskegon Correctional Facility in Muskegon, Michigan, has submitted a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 and an application to proceed in forma pauperis. Petitioner's certificate of prisoner institutional/trust fund account activity states that he had a current spendable account balance of \$70.92 in his prison account as of February 4, 2013, when an administrative officer of the Michigan Department of Corrections certified his financial statement. Also, for the six months preceding the filing of his petition, Petitioner had an average monthly deposit to his account of \$148.31. The Court concludes from the financial data that Petitioner has not established indigence and that he should be able to pay the \$5.00 filing fee for this action. Accordingly, the Court **DENIES**

Petitioner's application to proceed in forma pauperis and **DISMISSES WITHOUT PREJUDICE** the petition for writ of habeas corpus.

Further, the Court **DENIES WITHOUT PREJUDICE** Petitioner's Motion for Release on Bond Pending Appeal (dkt. #2), Motion for Leave to File Excess Pages (dkt. # 3), Motion for Evidentiary Hearing (dkt. #4), and Motion to Exceed Page Limit (dkt. # 9).

**IT IS SO ORDERED.**

Dated: March 7, 2013

s/George Caram Steeh

GEORGE CARAM STEEH

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on March 7, 2013, by electronic and/or ordinary mail and also on John Niemiec, #523576, Muskegon Correctional Facility, 2400 S. Sheridan, Muskegon, MI 49442.

s/Barbara Radke  
Deputy Clerk